

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(NORTHERN DIVISION)

MARK KOEHLER, *et al.*

*

Plaintiffs,

*

vs.

*

WELLS FARGO BANK, *et al.*

*

Defendants.

*

Civil Action No.: _____
(Removed from Circuit Court for
Carroll County, Case No.
06-C-10056736)

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* * * * *

NOTICE OF REMOVAL

Defendants McCormick Mortgage Services, LLC and Patrick McCormick (collectively the “McCormick Defendants”), by their attorneys, provide notice pursuant to 28 U.S.C. §§ 1441 and 1446 of the removal of the action styled *Mark Koehler, et al. v. Wells Fargo Bank, et al.*, Circuit Court for Carroll County, Maryland, Case Number 06-C-10056736, to the United States District Court for the District of Maryland. Removal is based on 28 U.S.C. § 1331 (federal question jurisdiction) and 1367 (supplemental jurisdiction). As grounds for removal, the McCormick Defendants state the following:

I. PLAINTIFFS’ COMPLAINT

1. Plaintiffs Mark Koehler and Anne Koehler (collectively “Plaintiffs”) commenced this action against the McCormick Defendants and Wells Fargo Bank¹ on or about June 4, 2010 by filing a complaint in the Circuit Court for Carroll County, Maryland (the “State Court Action”). The State Court Action was assigned Case Number 06-C-10056736.

¹ As of the date of this filing, Wells Fargo Bank has not yet been served with the Summons and Complaint.

2. The complaint asserts ten claims against the McCormick Defendants arising from a loan. Complaint, ¶ 15. The specific claims asserted against the McCormick Defendants include: (1) violations of the Truth in Lending Act; (2) violations of the Real Estate Settlement Procedures Act; (3) constructive fraud; (4) civil fraud; (5) negligence; (6) negligent misrepresentation; (7) civil conspiracy; (8) aiding and abetting; (9) declaratory judgment and quiet title; and (10) injunctive relief. *See* Counts I-X of the Complaint. Plaintiffs seek to recover against the McCormick Defendants an unspecified amount of actual and punitive damages, costs, attorneys' fees and declaratory relief. *See* Complaint, Prayer for Relief.

3. Removal to this Court is proper. Pursuant to 28 U.S.C. §§ 1446(a) and 1441(a), this Notice of Removal is being filed in the United States District Court for the District of Maryland, Northern Division, which is the federal district court embracing the state court where the State Court Action was filed.

4. Removal is timely. The complaint and original Summons were first received by service upon the McCormick Defendants on June 17, 2010. Receipt of the complaint and Summons was the first notice of the State Court Action or federal jurisdiction received by the McCormick Defendants. This Notice of Removal is being filed with the United States District Court for the District of Maryland on July 14, 2010, within thirty days after receipt of the State Court Action complaint by the McCormick Defendants. *See* 28 U.S.C. § 1446(b).

5. All other procedural requirements have been met.

a. Attached hereto as **Exhibit 1** are copies of all "process, pleadings and orders served upon" the McCormick Defendants in the underlying State Court Action

and are being filed with the Clerk of the Court contemporaneously with the filing of this Notice of Removal. *See* 28 U.S.C. § 1446(a); Local Rule 103(5)(a).

- b. Attached hereto as **Exhibit 2** is a copy of the Notice of Filing of Notice of Removal that the McCormick Defendants will file with the Clerk of the Circuit Court for Carroll County, Maryland and will promptly serve upon Plaintiffs' counsel pursuant to 28 U.S.C. § 1446(d).

II. STATUTORY REQUIREMENTS

6. The Court has jurisdiction over Plaintiffs' Complaint pursuant to 28 U.S.C. § 1331.

7. Count I of the complaint alleges violations of the Truth in Lending Act, 15 U.S.C. §§ 1601 *et seq.* ("TILA") and the Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 *et seq.* ("RESPA") arising out of the purported failure to provide certain disclosures that Plaintiffs contend they were entitled to receive under TILA and RESPA. *See* Complaint, Counts I and II. The resolution of Plaintiffs' TILA and RESPA claims involves substantial questions of federal law, over which the United States District Court has original jurisdiction pursuant to 28 U.S.C. § 1331.

8. To the extent the complaint asserts claims that do not involve the application and interpretation of either TILA and RESPA or both, this Court has supplemental jurisdiction over those claims pursuant to 28 U.S.C. §§ 1367(a) and 1441(c).

9. Based on the foregoing, this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1332 and 1367 and removal is proper.

WHEREFORE, having satisfied all the requirements for removal under 28 U.S.C. §§ 1441 and 1446, including the satisfaction of all jurisdictional requirements established by 28 U.S.C. § 1332,

Defendants McCormick Mortgage Services, LLC and Patrick McCormick respectfully serve notice that the above-referenced civil action, now pending in the Circuit Court for Carroll County, Maryland, is removed therefrom to the United States District Court for the District of Maryland.

Respectfully submitted,

/s/

George F. Ritchie (Fed. Bar No. 22408)

John Y. Lee (Fed. Bar No. 28313)

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*Attorneys for Defendants Patrick McCormick and
McCormick Mortgage Services, LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of July, 2010, a copy of the foregoing Notice of Removal was mailed, first-class, postage prepaid, to:

Terry Morris, Esq.
Morris Palerm LLC
17 W. Jefferson Street, Suite 005
Rockville, Maryland 20850
Attorneys for Plaintiffs

_____/s/_____
John Y. Lee